

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL BRAINERD,

04-CV-1735-JE

Petitioner,

ORDER

v.

GUY HALL, Superintendent, Two
Rivers Correctional Institution,

Respondent.

STEVEN T. WAX
Federal Public Defender
C. RENEE MANES
Assistant Federal Public Defender
101 SW Main Street
Suite 1700
Portland, OR 97201
(503) 326-2123

Attorneys for Petitioner

HARDY MYERS
Attorney General
DOUGLAS Y.S. PARK
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
(503) 378-6313

Attorneys for Respondent

BROWN, Judge.

Magistrate Judge John Jelderks issued Findings and Recommendation (#54) on April 11, 2007, in which he recommended the Court deny Petitioner's First Amended Petition for Writ of Habeas Corpus (#14) and dismiss this matter with prejudice. Petitioner filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *McDonnell Douglas Corp. v. Commodore Business Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has carefully considered Petitioner's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. This Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#54), **DENIES** Petitioner's First Amended Petition

for Writ of Habeas Corpus (#14), and **DISMISSES** this matter **with prejudice**.

IT IS SO ORDERED.

DATED this 30th day of May, 2007.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge